S.B.CIVIL WRIT PETITION NO.2199/2006

Shree Alloys Industries Pvt. Ltd.
v.
Rajasthan Tax Board, Ajmer & Ors.

Date of Order :: 21st August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sanjeev Johari, for the petitioner.
Mr. Anil Bhansali, for the respondents.

....

Being aggrieved by the order dated 10.11.2005 the petitioner preferred an appeal that came to be rejected by the Deputy Commissioner (Appeals) under an order dated 23.12.2005 and validity of that too was assailed before the Rajasthan Tax Board with a contention that the petitioner company deposited the entire tax and interest thereon prior to 30.4.2006, thus, it could have not been subjected to any penalty. The Tax Board by an interim order dated 24.3.2006 stayed the payment of penalty amount to the extent of Rs.10,96,000/- out of total penalty of Rs.20,96,198/-. This petition for writ is preferred to challenge the interim order dated 24.3.2006 by the assessee on the ground that payment of entire penalty amount should have been stayed being without jurisdiction.

I do not find any good reason to examine merits of the argument made by counsel for the

petitioner for the simple reason that whether penalty imposed is without jurisdiction is yet to be examined by the Tax Board by adjudicating the appeal. If this Court, at this stage, give any opinion on merits with regard to validity of the penalty imposed, that will as a matter of fact make the appeal pending before the Board infructuous. The Tax Board by exercising broad discretion vested with it passed an interim order which admittedly does not suffer from any jurisdictional error or perversity that may warrant interference of this Court under Articles 226 and 227 of the Constitution of India.

The writ petition, therefore, is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.